

C651mooc

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK  
-----x

3 MONIQUE DA SILVA MOORE, et  
al.,

4 Plaintiffs,

5 v.

11-CV-1279 (ALC) (KNF)

6 PUBLICIS GROUPE SA and MSL  
7 GROUP,

8 Defendants.

Conference

9 -----x  
10 New York, N.Y.  
June 5, 2012  
2:40 p.m.

11 Before:

12 HON. ANDREW L. CARTER, JR.,

13 District Judge

14 APPEARANCES

15 SANFORD WITTELS & HEISLER, LLP  
16 Attorneys for Plaintiffs  
BY: STEVEN WITTELS, ESQ.  
17 DEEPIKA BAINS, ESQ.

18 MORGAN, LEWIS & BOCKIUS LLP  
19 Attorneys for Defendant Publicis Groupe SA  
BY: KRISSY A. KATZENSTEIN, ESQ.

20 JACKSON LEWIS LLP  
21 Attorneys for Defendant MSL Group  
BY: JEFFREY W. BRECHER, ESQ.  
22 VICTORIA WOODIN CHAVEY, ESQ.

C651mooc

1 (In open court; case called)

2 THE CLERK: Counsel, please state your appearance for  
3 the plaintiff.

4 MR. WITTELS: Steven Wittels, Sanford Wittels &  
5 Heisler, for the plaintiffs. Good afternoon, your Honor.

6 MS. BAINS: Good afternoon, your Honor. Deepika  
7 Bains, Sanford Wittels & Heisler, for the plaintiffs.

8 THE COURT: Good afternoon.

9 THE CLERK: For the defendant?

10 MR. BRECHER: Good afternoon, your Honor. Jeffrey  
11 Brecher on behalf of MSL Group.

12 MS. WOODIN CHAVEY: Victoria Chavey on behalf of MSL  
13 Group as well.

14 MS. KATZENSTEIN: Krissy Katzenstein on behalf of  
15 Publicis Groupe.

16 THE COURT: Thanks. Good afternoon.

17 ALL COUNSEL: Good afternoon.

18 THE COURT: Okay. First, a couple of housekeeping  
19 matters.

20 Plaintiffs have filed a motion to withdraw their  
21 objection to Judge Peck's denial of the stay of discovery, and  
22 defendants don't object to that. That motion is granted.

23 In addition, the defendants have sought permission to  
24 provide supplemental briefing on conditional certification in  
25 light of Judge Buchwald's recent decision. I'm aware of that

C651mooc

1 decision. Supplemental briefing is not necessary, and that  
2 application is denied.

3 I will have a decision on conditional certification  
4 and on the filing of the proposed second amended complaint by  
5 the end of this month.

6 Let's turn to sealing. I received and reviewed the  
7 parties' submissions. The protective order in effect certainly  
8 contemplates that the documents may be unsealed by order of the  
9 court. The protective order does not need to be modified and I  
10 am not modifying it. I have considered which documents should  
11 be unsealed. I have determined that each of the documents in  
12 question here is in fact a judicial document, and since the  
13 documents are not being submitted in conjunction with a  
14 dispositive motion, the presumption of public access is not a  
15 rock solid one, but it is not a meager presumption. I've  
16 weighed the intermediate presumption of public access against  
17 the privacy concerns of the defendants, as well as the privacy  
18 concerns of third parties, and I've also contemplated how the  
19 public's access to these documents might affect judicial  
20 efficiency. Accordingly, I make the following ruling regarding  
21 the documents that should be unsealed:

22 Regarding the pay comparison charts, that's document  
23 number 135, Exhibit Q, I know the parties have agreed that that  
24 should remain under seal, but I feel that the public's rights  
25 to the access trumps the parties' agreement there. That should

C651mooc

1 be unsealed, but the parties should redact the names of the  
2 employees.

3                 The MSL chart of individual salaries, document  
4 number 119-5, Exhibit 14, should also be unsealed, but the  
5 names of the employees should also be redacted.

6                 Regarding the job code data dictionary, document  
7 number 135, Exhibit R, that document should be unsealed.

8                 Regarding the MSL job hierarchy, document  
9 number 119-1, Exhibit 1, that should be unsealed. I have not  
10 seen that document. If there are names of employees in that  
11 document, the names of the employees should be redacted.

12                 Regarding the Janus book, document 135, Exhibit D,  
13 Exhibit D should be unsealed. I know that the plaintiffs are  
14 seeking that the entire Janus book be unsealed. I have not  
15 seen the entire Janus book. I've only seen what's been  
16 attached as Exhibit D, so I can't make a ruling on that, and I  
17 know the entire Janus book hasn't been submitted, but we can  
18 deal with that at another date if the plaintiffs still wish to  
19 unseal the entire Janus book. But Exhibit D should be  
20 unsealed.

21                 The pay for performance guide, document 135, Exhibit  
22 F, that document should be unsealed.

23                 The performance management program presentation,  
24 document number 135, Exhibit K, that document should be  
25 unsealed.

C651mooc

1           And again, if I didn't mention, that pay for  
2 performance guide is document number 135, Exhibit F.

3           The promotion recommendation process, document  
4 number 135, Exhibit L, should be unsealed.

5           The salary banner data, document number 135, Exhibit  
6 I, document number 119-2, Exhibit 6, should be unsealed, and  
7 the recommended ranges should be redacted.

8           Regarding the 2011 Council of Public Relations Firms  
9 Metro Compensation Survey, document number 135, Exhibit G, that  
10 document should remain under seal.

11          Regarding the 2010 Mercer Global Compensation Survey,  
12 document number 135, Exhibit H, that document should remain  
13 under seal.

14          Regarding the job description, document number 135,  
15 Exhibit J, that document should be unsealed.

16          Regarding the MSL organizational chart, document  
17 number 119-5, Exhibit 15, those charts should be unsealed, but  
18 the names of the employees should be redacted.

19          The HR complaint referenced in the proposed second  
20 amended complaint, as I've indicated, I haven't made a decision  
21 about the propriety of allowing the plaintiffs to file the  
22 second amended complaint. So I'll rule on whether or not this  
23 should be under seal. If I allow the plaintiff to file the  
24 proposed second amended complaint, the portion of the proposed  
25 second amended complaint in question, paragraphs 44 through 45,

C651mooc

1 should be unsealed. Obviously, if the plaintiffs are not  
2 allowed to file the proposed second amended complaint, then  
3 that issue is moot.

4               Okay. So the parties should speak to the clerk's  
5 office and ECF to try to comport my rulings with what's on ECF  
6 so we can try to keep the docket neat and orderly.

7               Is there anything else from counsel today? Anything  
8 else from plaintiff's counsel today?

9               MR. WITTELS: Your Honor, thank you, yes, a few brief  
10 items.

11               There are over 5300 other documents that the  
12 defendants have marked confidential that we think fall within  
13 the bulk of the rulings you made that should be unsealed. We  
14 don't think it's time efficient or this court should be  
15 burdened with going through all 5300 documents. We'd like the  
16 defendants to articulate why they did a wholesale, you know,  
17 confidentiality designation of documents that really are not  
18 proprietary; they don't have any confidential information. We  
19 certainly would go with your Honor's solution with respect to  
20 redacting names if there are salaried items. We agree that  
21 should be kept confidential. But to willy nilly designate we  
22 think is inappropriate. We'd like to know, should we just  
23 challenge defendants to -- on all of those designations and  
24 bring it to a motion, or do you want -- do you have another  
25 alternative way, mechanism?

C651mooc

1                   THE COURT: Well, the 5300 documents that you're  
2 talking about, what we're dealing with are the documents that  
3 would be filed publicly. What the parties want to label  
4 confidential amongst themselves, again, we can deal with that  
5 at another point, but my assumption would be that you don't  
6 wish to file all 5300 documents in conjunction with the motion,  
7 or do you?

8                   MR. WITTELS: No. But there will be apparently --  
9 this gets to the second point. There's another dispositive  
10 motion that apparently Publicis will be making to which they  
11 will undoubtedly attach some documents. We will respond.  
12 We'll be in the same boat of having to seal documents. We just  
13 don't want to go through the process every time. It's never  
14 been in a case where every time you have a motion, you have to  
15 do it under seal.

16                  THE COURT: Okay. So what is your suggestion?

17                  MR. WITTELS: Well, I'd like them to articulate -- I  
18 just think that there was no forethought that went into the  
19 designation of documents. They just stamped everything  
20 confidential. They have to articulate some basis. I'd like  
21 the defendants to really be put to the test of articulating  
22 what they really want to remain confidential so we can either  
23 disagree or not disagree and then bring the dispute to your  
24 Honor, because we don't know which documents will have to be  
25 brought into court on a motion subsequently, if the case does

C651mooc

1 go forward, and as your Honor pointed out when we wanted to  
2 keep certain declarations under file, sooner or later they will  
3 become public. So we're asking the defendants now to  
4 articulate the basis for designating the documents confidential  
5 and then we can work it out amongst ourselves instead of having  
6 to go before your Honor. The remaining ones would go before  
7 your Honor.

8 THE COURT: Okay. Let me hear from defendant.

9 MR. BRECHER: Thank you, your Honor.

10 There's a completely different standard that applies  
11 to documents that are being filed in a dispositive motion  
12 versus documents that are just being exchanged for purposes of  
13 discovery. There is absolutely no presumption of access,  
14 according to the Second Circuit, with respect to those kind of  
15 documents. The documents were not marked willy nilly  
16 confidential. As you can imagine that when you're dealing with  
17 a public relations firm who has many clients, there are a lot  
18 of internal documents that need to be marked confidential, and  
19 there's no need to have those just -- you know, the  
20 confidentiality stripped just because the plaintiffs filed a  
21 lawsuit.

22 There is a procedure set forth in a stipulation of  
23 confidentiality that was so ordered by Judge Peck that sets  
24 forth the procedure that should follow if you believe that the  
25 designation is incorrect. So my suggestion would be, if you're

C651mooc

1 going to file a dispositive motion or -- and you need a  
2 document in order to do so, let us know first, let us confer,  
3 and then if we can't agree, we can say to the court, you know,  
4 five days before the filing, we've met and conferred, here's a  
5 list of documents that we weren't able to agree with, we'd  
6 request a ruling on those documents.

7 THE COURT: Okay. Thank you.

8 Anything else from plaintiff?

9 MR. WITTELS: Well, here's one of the problems, your  
10 Honor. The time frame for a lot of these motions was  
11 expedited. Judge Peck ordered certain deadlines to be moved  
12 back. For example, the deadline now is -- I think it's  
13 June 18<sup>th</sup>. There's a 21-day provision I think in the  
14 protective order for us to say which documents shouldn't be,  
15 which we challenge. Now we won't know, out of 5300  
16 necessarily -- we could identify some that we want to use, but  
17 then there will be 21 days -- there won't be time to have that  
18 resolved certainly on this motion as to any disputed documents  
19 except by, again, bringing it to your Honor, so there will be  
20 more sealings on this motion.

21 I agree, a party has a right to mark a document  
22 confidential, but there has to be some basis. As you can see  
23 from most of the documents that were marked, there isn't really  
24 a basis for why. Policy documents, documents that don't  
25 affect -- have any proprietary reasons should not be kept

C651mooc

1 confidential. So there is a strong presumption in documents,  
2 you know, not being -- being shown to the public, and that's  
3 what we're arguing for here. So I don't know that defendants  
4 have really proposed a solution that works other than we get  
5 into now every motion we're going to end up having this  
6 back-and-forth.

7 THE COURT: I think that's kind of the process that  
8 we're going to be left with. There is a distinction between  
9 the parties marking documents confidential so that one side  
10 doesn't run out and have a press conference and start talking  
11 about the document as opposed to judicial documents, documents  
12 that are filed in conjunction with a motion, for conditional  
13 certification or dispositive motion or whatever that motion may  
14 be. I understand your concern, but a lot of these things we  
15 really can't do preemptively. Once a dispositive motion is  
16 filed, you'll have a better sense of what your response to that  
17 motion will be, you'll have a better sense of what documents  
18 you want to introduce. Again, my hope would be that the  
19 parties would not need to attach 5300 documents in a  
20 dispositive motion or any other motion.

21 So I understand your concern. Your concern is the  
22 public's right to have access to these documents. I'm  
23 certainly very concerned with that. But again, that happens  
24 once these documents are being used as judicial documents.  
25 Right now that's a little bit preemptive, so we'll have to

C651mooc

1 wait, cross that bridge when we get to it, unfortunately.

2 MR. WITTELS: All right. Well, your Honor, one other  
3 item is, we are deposing tomorrow on the jurisdictional  
4 question a high executive from Publicis. Now last week we got  
5 an e-mail from defense counsel saying, "We want you to know  
6 that we are only producing this witness once." Why this has  
7 now devolved into what has become a dispute is that we've  
8 objected to Magistrate Peck's ruling on -- limiting our  
9 jurisdictional discovery, and if your Honor -- and I don't want  
10 to get into a preemptive sort of argument situation, but the  
11 problem is, if your Honor agrees that we were too limited in  
12 the scope of what we were able to obtain from the  
13 jurisdictional perspective in terms of discovery, then we might  
14 very well need to bring this witness back or seek additional  
15 documents from him or further discovery from him. So we would  
16 like your Honor's guidance on this to tell us that if there is  
17 a ruling down the road here that opens up further  
18 jurisdictional discovery, that we not be bound by defendants'  
19 argument that, well, you had only one chance to depose this  
20 witness.

21 The only other alternative would be to ask the court  
22 to stay jurisdictional discovery until that motion is heard on  
23 the jurisdictional discovery and then we can have full inquiry  
24 into -- do depositions in discovery and the briefing would be  
25 fully ripe. That would be the only way around that.

C651mooc

1           Your Honor is aware that Judge Peck had stayed the  
2 discovery in great part because of the upcoming motion and what  
3 might devolve, given your Honor's ruling on certification  
4 issues. So we're in the same sort of boat here, is what I'm  
5 trying to get across, and we just don't want to be prejudiced  
6 as a plaintiff by defendants' position, which we disagree with,  
7 that we only can depose this witness once. If discovery -- if  
8 your Honor takes a different position on the jurisdictional  
9 objection we made to Judge Peck's ruling, then we believe that  
10 would not be the case.

11           So without asking for preemptive ruling, I'm asking  
12 that your Honor rule that there is no ruling here, defendants'  
13 position that there's only one bite at the apple or one bite at  
14 a witness is not law or is not subject to any type of order.

15           THE COURT: I'm not sure I'm understanding what it is  
16 you're asking me to do. You say you don't want me to make a  
17 preemptive ruling, but that sort of sounds like what you're  
18 asking me to do.

19           What is it you're concerned about? You're concerned  
20 because the defendants have told you that you get one shot, and  
21 you're saying because the defendants have said this to you,  
22 you're concerned that because the defendants have said that,  
23 that Judge Peck won't listen to anything you have to say and I  
24 won't listen to anything that you have to say, that the  
25 defendants, in a sense, can overrule preemptively Judge Peck

C651mooc

1 and myself? Is that what your concern is?

2 MR. WITTELS: We are concerned by that in the sense  
3 that the defendants have already said in their e-mail, "Well,  
4 Judge Peck ordered you to have only one -- one opportunity."  
5 That's the position they're taking. And we just want to know  
6 and have it clear that our position is, if your Honor ruled  
7 that jurisdictional discovery was limited improperly and we're  
8 entitled to get more discovery, that then the defendants should  
9 not be able to stand on the argument they made Friday or here  
10 in court that we only got one bite at their witness.

11 THE COURT: Okay. I don't think it's necessary for me  
12 to make that ruling, if I'm understanding you properly, but let  
13 me hear from defense counsel on that.

14 MS. KATZENSTEIN: We would just note that in Judge  
15 Sullivan's original jurisdictional discovery order which  
16 granted limited discovery, there was one 30(b)(6) deposition  
17 permitted under that order. In that case -- or in that order  
18 the judge cited a case from the Second Circuit where the Second  
19 Circuit held jurisdictional discovery was inappropriate. We  
20 believe under that framework that Judge Peck's ruling was  
21 appropriate in terms of putting reasonable restrictions on  
22 discovery, so we think that -- we're confident that would be  
23 affirmed, but to the extent there are any changes, at this  
24 point it is entirely premature, given that we don't know  
25 whether any of those changes would affect whether a witness is

C651mooc

1       needed for a second time.

2                   Additionally, I would just note that it is extremely  
3 burdensome for us to have a high executive from Publicis fly  
4 over from Paris for the deposition. Plaintiffs have known our  
5 position on all three of the issues that Judge Peck ruled on  
6 since January, so it's kind of been the fact that it was only  
7 brought to Judge Peck's attention during a hearing on the  
8 14<sup>th</sup> and then objections not being filed until the 29<sup>th</sup>  
9 that have put us in the position where we now find ourselves.

10                  THE COURT: Okay. Let me hear from plaintiff's  
11 counsel.

12                  MR. WITTELS: Your Honor, I understand your Honor's  
13 reluctance to make a preemptive ruling. However, one thing  
14 warrants more clarification, which is that the witness they're  
15 bringing over was here in New York, not for a deposition but  
16 for another business reason. We agreed to depose him when  
17 defendants suggested and told us that he'll be here. So it's  
18 not that they brought him over solely for the deposition from  
19 Paris.

20                  But secondly, defendants we believe, again, are trying  
21 to get a preemptive ruling in effect by telling us, "You can't  
22 bring -- we won't bring our witness back." So we just want to  
23 know from the court -- have some guidance that there is no  
24 ruling in effect, that while defendants say there was limited  
25 discovery, that should be determined by your Honor through a

C651mooc

1       ruling on the objection to what the definition of "limited" is.  
2       So we believe there's certain information we need, we need to  
3       have certain broad-ranging questions of the 30(b)(6) witness  
4       they're going to bring to court, because the law on  
5       jurisdictional discovery says there's many ways you can show  
6       it, and that means to inquire into the subsidiaries that  
7       Publicis has, and the interrelationships. So we're just asking  
8       the court for some guidance, and if your Honor's guidance is  
9       that, "Well, there is no ruling, we'll take it -- take it up  
10      when I've made my ruling on the jurisdictional motion," then  
11      that's fine.

12                  THE COURT: What is your concern about what is going  
13      to happen tomorrow or what is not going to happen tomorrow?

14                  MR. WITTELS: Well, I'm concerned that we'll hear  
15      objections as well from the defendants about certain questions  
16      we ask that will suddenly fall to their position that, "Well,  
17      Judge Peck said you couldn't ask about that," or, "That wasn't  
18      within the scope of discovery," and then we'll be bound --  
19      we'll be forced into obviously, I guess, moving to compel  
20      further depositions. That's one concern.

21                  And our second concern is that, again, if your Honor  
22      rules on the jurisdictional motion that Judge Peck was too  
23      limited in what he granted us, we be allowed to bring the  
24      witness back in that circumstance. That's what we're concerned  
25      about.

C651mooc

1                   THE COURT: Okay. That last part, would you explain  
2 that to me again, what the concern is. You're saying,  
3 hypothetically speaking --

4                   MR. WITTELS: Yes.

5                   THE COURT: -- if I were to rule that Judge Peck's  
6 ruling was too limited --

7                   MR. WITTELS: Right.

8                   THE COURT: -- and if you get another opportunity to  
9 depose this witness, or that his ruling was too limited in  
10 terms of discovery --

11                  MR. WITTELS: Yes.

12                  THE COURT: -- you're concerned about what? If I were  
13 to do that, what is your concern then?

14                  MR. WITTELS: That defendants -- that defendants have  
15 now put on -- stated in here again on the record, "We won't  
16 bring our witness back." That's our concern. That because we  
17 went forward tomorrow, that we somehow waived our rights to  
18 have further questioning of that witness, the one 30(b)(6).  
19 That's our concern. That we are somehow waiving an objection  
20 by going forward. That's what defendants seem to be  
21 suggesting: "You go forward with the deposition tomorrow,  
22 you're waiving your right to get further discovery from that  
23 witness."

24                  THE COURT: Is that what the defendants' position is?

25                  MS. KATZENSTEIN: I think defendants' position is that

C651mooc

1 as a practical matter, we have our witness here, we have Judge  
2 Peck's ruling. We will be presenting the witness who is able  
3 to testify in accordance with those rulings. Discovery is set  
4 to close on this issue on June 18<sup>th</sup>, with a dispositive  
5 motion on that date. So we're, you know, cognizant of that,  
6 and it's, you know, practically not possible for this witness  
7 to come back to New York in that period, and I would just note,  
8 we had originally had it set to be in Paris and had agreed to  
9 present Mr. Etienne (ph) in New York while he is here.

10 THE COURT: All right. I'm not going to make any  
11 ruling on this. Again, it seems that you're asking for some  
12 sort of preemptive ruling that deals with all sorts of  
13 hypothetical contingencies which have not yet happened. You  
14 don't know what's going to happen tomorrow. I don't know.  
15 Perhaps you may be more satisfied with the deposition than you  
16 think; perhaps you will not. But we'll cross that bridge as we  
17 get to it.

18 Anything else from plaintiffs?

19 MR. WITTELS: May I defer to my colleague Deepika  
20 Bains on two other issues?

21 MS. BAINS: Your Honor, we have two other objections  
22 in front of the court that have filings under seal, so can we  
23 deal with those today or are we going -- is the procedure going  
24 to be briefing every time a document is filed under seal? We  
25 filed it under seal to comply with the confidentiality

C651mooc

1 agreement, but we do not believe that the document should be  
2 filed under seal -- remain under seal.

3 THE COURT: Okay. Defendants have notice of this?

4 MS. BAINS: Yes. It's the motion, the 5/7 --  
5 objections to the 5/7 ruling and the objections to the 5/14  
6 ruling.

7 THE COURT: Okay. Do defendants have any position on  
8 that?

9 MR. BRECHER: Yes, Judge. We weren't prepared today,  
10 obviously, to talk about those two motions since it wasn't a  
11 topic of discussion. I vaguely recall that on the objections  
12 to the May 7<sup>th</sup> order of Judge Carter, I think they filed one  
13 single document under seal. I believe it's an e-mail that was  
14 exchanged during discovery and propriety of that e-mail being  
15 included, that we filed our response to the objection  
16 yesterday. As I recall, it's an e-mail that has the name of  
17 the employee and it has their salary information on it. So in  
18 accordance with your rulings earlier today, I would think that  
19 consistent with those, we can redact the name of the employee  
20 as well as the salary information and then I think that it  
21 would be okay to file that in a redacted form.

22 THE COURT: Let's do this. I'm not going to rule on  
23 that today. Let's give the parties a chance to speak with each  
24 other, give me a joint status report within a week, let me know  
25 if the parties have been able to reach an agreement. It very

C651mooc

1 well may be that the parties will be able to reach an  
2 agreement. And I'll let the parties know that I will try to  
3 keep all of my rulings regarding public access to these  
4 documents consistent. So it would appear that that would be  
5 consistent with my prior rulings. Again, I don't have those  
6 documents in front of me and I can't make a determination now.

7 MR. BRECHER: Thank you, your Honor. There was no  
8 meet-and-confer before that was filed so we weren't able to  
9 resolve that.

10 I just have a couple other things on the documents  
11 that you --

12 THE COURT: Hold on just a second.

13 MR. BRECHER: Oh, yeah.

14 THE COURT: Are plaintiffs finished?

15 MS. BAINS: No. We'll confer with respect to the  
16 documents attached to both motions.

17 THE COURT: Okay. Thanks. So let's have the parties  
18 file that joint status report on June the 12<sup>th</sup>.

19 Okay.

20 MR. BRECHER: Thank you, your Honor. When you were  
21 going through the documents that had been filed under seal,  
22 there was one other document that defendants, MSL Group, filed  
23 under seal, and that was the expert report of John Johnson.  
24 That was Exhibit 13. I don't believe there's a dispute between  
25 the parties about that document being filed under seal, but

C651mooc

I -- that's the only remaining document. It was Exhibit 13 in -- I believe it was -- the docket entry was 119, and it's the expert report. It has all of the salary information of all the employees and the names of all the employees with their salaries. So perhaps we could file that in a redacted form, again, taking out the names and taking out the salaries, and we can report on that at the same time as the joint status report on the 12<sup>th</sup>, if that's acceptable to the court.

THE COURT: That's fine. Hold on just a second.

Okay. Yes. Why don't you file that also on the 12<sup>th</sup>. But again, my rulings before were that the employees' names would be redacted; not the salary, the employees' names.

MR. BRECHER: Okay. Thank you, your Honor. And I just want to make sure I understood your ruling on the second amended complaint, those two paragraphs. I know you said you haven't ruled on that motion, obviously. So is that going to be basically stayed where it is until you make a ruling, or should that be filed in unredacted format even pending the ruling? I wasn't clear on what your ruling was.

THE COURT: We can hold off on that until I make a ruling, which, again, will happen at the end of this month.

MR. BRECHER: Thank you.

And lastly, on the organizational chart, you had asked us to redact the names of the individuals. May we also redact the names of the clients; for example, Bayer or some other

C651mooc

1 client?

2 THE COURT: No. The names of the clients will stay.

3 MR. BRECHER: Thank you, your Honor.

4 THE COURT: Okay.

5 MS. BAINS: Your Honor, just responding briefly about  
6 Dr. Johnson's expert report, we'll agree to redact the names on  
7 those, but otherwise we don't think anything else should be --  
8 remain under seal, so if the defendants are representing that  
9 they're okay with that too, we can resolve that now.

10 THE COURT: Okay. That's fine. I'll let the parties  
11 think about it and give me the joint status report next week,  
12 or give me a status report before that if you wish.

13 Anything else from defendants?

14 MR. BRECHER: That's it, your Honor. Thank you.

15 MS. KATZENSTEIN: No, your Honor.

16 THE COURT: Plaintiff's counsel?

17 MR. WITTELS: No, your Honor. Thank you.

18 THE COURT: All right. Thank you very much.

19 ooo

20 THE COURT: One more thing, actually. Sorry about  
21 that. My clerk just brought something to my attention.

22 Actually, for the proposed second amended complaint,  
23 if that has already been filed, the parties should go ahead and  
24 that should be unredacted, the version that's already been  
25 filed on the docket. Again, I haven't made a ruling as to

C651mooc

1 whether or not the plaintiffs may actually officially file the  
2 second amended complaint, but what's been attached already in  
3 their moving papers, that version should be unredacted as to  
4 paragraphs 44 and 45. Okay?

5 ALL COUNSEL: Thank you, your Honor.

6 THE COURT: All right. Thank you.

7 And again, make sure you speak to the clerk's office  
8 and ECF to comport the documents with my rulings.

9 ooo  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25